

**BEFORE THE  
BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 4133

**MARCUS EDDENS**

509 Granite View Drive

Perris, CA 92571

Pharmacy Technician Registration No.

TCH 96615

Respondent.

**DECISION AND ORDER**

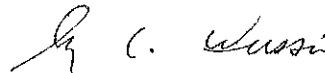
The attached Stipulated Surrender of License and Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on April 8, 2013.

It is so ORDERED on March 7, 2013.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

By



\_\_\_\_\_  
STANLEY C. WEISSER  
Board President

1 KAMALA D. HARRIS  
Attorney General of California  
2 JAMES M. LEDAKIS  
Supervising Deputy Attorney General  
3 DIANE DE KERVOR  
Deputy Attorney General  
4 State Bar No. 174721  
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*Attorneys for Complainant*

8  
9 **BEFORE THE**  
**BOARD OF PHARMACY**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 4133

12 **MARCUS EDDENS**  
13 **2000 South Arlington Avenue, #207**  
14 **Los Angeles, CA 90018**

OAH No. 2012061139

15 **Pharmacy Technician Registration No. TCH**  
**96615**

**STIPULATED SURRENDER OF  
LICENSE AND ORDER**

16 Respondent.

17  
18 IT IS HEREBY STIPULATED AND AGREED by and between the parties in this  
19 proceeding that the following matters are true:

20 PARTIES

21 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy.  
22 She brought this action solely in her official capacity and is represented in this matter by Kamala  
23 D. Harris, Attorney General of the State of California, by Diane de Kervor, Deputy Attorney  
24 General.

25 2. Marcus Eddens (Respondent) is representing himself in this proceeding and has  
26 chosen not to exercise his right to be represented by counsel.  
27  
28

1           3.     On or about January 29, 2010, the Board of Pharmacy issued Pharmacy Technician  
2 Registration No. TCH 96615 to Marcus Eddens (Respondent). The Pharmacy Technician  
3 Registration expired on April 30, 2011.

4                                   JURISDICTION

5           4.     Accusation No. 4133 was filed before the Board of Pharmacy (Board), Department of  
6 Consumer Affairs, and is currently pending against Respondent. The Accusation and all other  
7 statutorily required documents were properly served on Respondent on April 10, 2012.  
8 Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation  
9 No. 4133 is attached as Exhibit A and incorporated by reference.

10                               ADVISEMENT AND WAIVERS

11          5.     Respondent has carefully read, and understands the charges and allegations in  
12 Accusation No. 4133. Respondent also has carefully read, and understands the effects of this  
13 Stipulated Surrender of License and Order.

14          6.     Respondent is fully aware of his legal rights in this matter, including the right to a  
15 hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at  
16 his own expense; the right to confront and cross-examine the witnesses against him; the right to  
17 present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel  
18 the attendance of witnesses and the production of documents; the right to reconsideration and  
19 court review of an adverse decision; and all other rights accorded by the California  
20 Administrative Procedure Act and other applicable laws.

21          7.     Respondent voluntarily, knowingly, and intelligently waives and gives up each and  
22 every right set forth above.

23                               CULPABILITY

24          8.     Respondent admits the truth of each and every charge and allegation in Accusation  
25 No. 4133, agrees that cause exists for discipline and hereby surrenders his Pharmacy Technician  
26 Registration No. TCH 96615 for the Board's formal acceptance.

27          9.     Respondent understands that by signing this stipulation he enables the Board to issue  
28 an order accepting the surrender of his Pharmacy Technician Registration without further process.

CONTINGENCY

10. This stipulation shall be subject to approval by the Board of Pharmacy. Respondent understands and agrees that counsel for Complainant and the staff of the Board of Pharmacy may communicate directly with the Board regarding this stipulation and surrender, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

11. The parties understand and agree that facsimile copies of this Stipulated Surrender of License and Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

12. This Stipulated Surrender of License and Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Surrender of License and Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

13. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Order:

ORDER

IT IS HEREBY ORDERED that Pharmacy Technician Registration No. TCH 96615, issued to Respondent Marcus Eddens, is surrendered and accepted by the Board of Pharmacy.

1. The surrender of Respondent's Pharmacy Technician Registration and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Board of Pharmacy.

2. Respondent shall lose all rights and privileges as a Pharmacy Technician in California as of the effective date of the Board's Decision and Order.

3. Respondent shall cause to be delivered to the Board his pocket license and, if one was issued, his wall certificate on or before the effective date of the Decision and Order.

4. If he ever applies for licensure or petitions for reinstatement in the State of California, the Board shall treat it as a new application for licensure. Respondent must comply with all the laws, regulations and procedures for licensure in effect at the time the application or petition is filed, and all of the charges and allegations contained in Accusation No. 4133 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the application or petition.

5. Respondent shall pay the agency its costs of investigation and enforcement in the amount of \$111.00 prior to issuance of a new or reinstated license.

6. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing agency in the State of California, all of the charges and allegations contained in Accusation, No. 4133 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

7. Respondent may not apply for, or reapply for, or petition for reinstatement of any license, permit, or registration from the Board for three (3) years from the effective date of this Decision and Order.

#### ACCEPTANCE

I have carefully read the Stipulated Surrender of License and Order. I understand the stipulation and the effect it will have on my Pharmacy Technician Registration. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED: 1-22-13

Marcus S. Eddens  
MARCUS EDDENS  
Respondent

(619) 645-2061

ENDORSEMENT

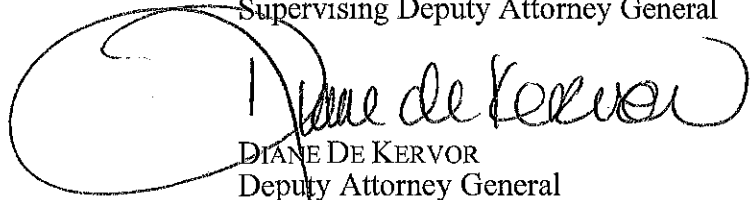
The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted  
for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

Dated:

1/22/2013

Respectfully submitted,

KAMALA D. HARRIS  
Attorney General of California  
JAMES M. LEDAKIS  
Supervising Deputy Attorney General



DIANE DE KERVOR  
Deputy Attorney General  
*Attorneys for Complainant*

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**Exhibit A**

**Accusation No. 4133**

1 KAMALA D. HARRIS  
Attorney General of California  
2 ALFREDO TERRAZAS  
Senior Assistant Attorney General  
3 JAMES M. LEDAKIS  
Supervising Deputy Attorney General  
4 State Bar No. 132645  
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P.O. Box 85266  
6 San Diego, CA 92186-5266  
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7 Facsimile: (619) 645-2061  
*Attorneys for Complainant*

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9 **BEFORE THE**  
**BOARD OF PHARMACY**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 4133

12 **MARCUS LEON EDDENS**  
13 **509 Granite View Drive**  
14 **Perris, CA 92571**

**ACCUSATION**

15 **Pharmacy Technician Registration**  
**No. TCH 96615**

16 Respondent.

17  
18 Complainant alleges:

19 **PARTIES**

20 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity  
21 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

22 2. On or about January 29, 2010, the Board of Pharmacy issued Pharmacy Technician  
23 Registration Number TCH 96615 to Marcus Leon Eddens (Respondent). The Pharmacy  
24 Technician Registration was in full force and effect at all times relevant to the charges brought  
25 herein and will expire on April 30, 2013, unless renewed.

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1           8.    Section 492 of the Code states:

2           Notwithstanding any other provision of law, successful completion of any  
3           diversion program under the Penal Code, or successful completion of an alcohol and  
4           drug problem assessment program under Article 5 (commencing with section  
5           23249.50) of Chapter 12 of Division 11 of the Vehicle Code, shall not prohibit any  
6           agency established under Division 2 ([Healing Arts] commencing with Section 500)  
7           of this code, or any initiative act referred to in that division, from taking disciplinary  
8           action against a licensee or from denying a license for professional misconduct,  
9           notwithstanding that evidence of that misconduct may be recorded in a record  
10          pertaining to an arrest.

11          This section shall not be construed to apply to any drug diversion program  
12          operated by any agency established under Division 2 (commencing with Section 500)  
13          of this code, or any initiative act referred to in that division.

14           9.    Section 493 of the Code states:

15          Notwithstanding any other provision of law, in a proceeding conducted by a  
16          board within the department pursuant to law to deny an application for a license or  
17          to suspend or revoke a license or otherwise take disciplinary action against a  
18          person who holds a license, upon the ground that the applicant or the licensee has  
19          been convicted of a crime substantially related to the qualifications, functions, and  
20          duties of the licensee in question, the record of conviction of the crime shall be  
21          conclusive evidence of the fact that the conviction occurred, but only of that fact,  
22          and the board may inquire into the circumstances surrounding the commission of  
23          the crime in order to fix the degree of discipline or to determine if the conviction is  
24          substantially related to the qualifications, functions, and duties of the licensee in  
25          question.

26          As used in this section, "license" includes "certificate," "permit,"  
27          "authority," and "registration."

28           10.   Section 4301 of the Code states:

          The board shall take action against any holder of a license who is guilty of  
unprofessional conduct or whose license has been procured by fraud or  
misrepresentation or issued by mistake. Unprofessional conduct shall include, but is  
not limited to, any of the following:

....

(j) The violation of any of the statutes of this state or of the United States  
regulating controlled substances and dangerous drugs.

....

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(l) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13 (commencing with Section 801) of Title 21 of the United States Code regulating controlled substances or of a violation of the statutes of this state regulating controlled substances or dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime, in order to fix the degree of discipline or, in the case of a conviction not involving controlled substances or dangerous drugs, to determine if the conviction is of an offense substantially related to the qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this provision. The board may take action when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal code allowing the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

....

(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any provision or term of this chapter or of the applicable federal and state laws and regulations governing pharmacy, including regulations established by the board.

(p) Actions or conduct that would have warranted denial of a license.

....

11. Section 4022 of the Code states

"Dangerous drug" or "dangerous device" means any drug or device unsafe for self-use in humans or animals, and includes the following:

(a) Any drug that bears the legend: "Caution: federal law prohibits dispensing without prescription," "Rx only," or words of similar import.

(b) Any device that bears the statement: "Caution: federal law restricts this device to sale by or on the order of a \_\_\_\_\_," "Rx only," or words of similar import, the blank to be filled in with the designation of the practitioner licensed to use or order use of the device.

(c) Any other drug or device that by federal or state law can be lawfully dispensed only on prescription or furnished pursuant to Section 4006.

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12. Section 4060 of the Code states:

No person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, or veterinarian, or furnished pursuant to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a physician assistant pursuant to Section 3502.1. This section shall not apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy, physician, podiatrist, dentist, veterinarian, certified nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly labeled with the name and address of the supplier or producer.

Nothing in this section authorizes a certified nurse-midwife, a nurse practitioner, or a physician assistant to order his or her own stock of dangerous drugs and devices.

13. Title 16, California Code of Regulations, section 1769, states:

....

(b) When considering the suspension or revocation of a facility or a personal license on the ground that the licensee or the registrant has been convicted of a crime, the board, in evaluating the rehabilitation of such person and his present eligibility for a license will consider the following criteria:

(1) Nature and severity of the act(s) or offense(s).

(2) Total criminal record.

(3) The time that has elapsed since commission of the act(s) or offense(s).

(4) Whether the licensee has complied with all terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.

(5) Evidence, if any, of rehabilitation submitted by the licensee.

14. Title 16, California Code of Regulations, section 1770, states:

For the purpose of denial, suspension, or revocation of a personal or facility license pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be considered substantially related to the qualifications, functions or duties of a licensee or registrant if to a substantial degree it evidences present or potential unfitness of a licensee or registrant to perform the functions authorized by his license or registration in a manner consistent with the public health, safety, or welfare.

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1 **COST RECOVERY**

2 15. Section 125.3 of the Code states, in pertinent part, that the Board may request the  
3 administrative law judge to direct a licensee found to have committed a violation or violations of  
4 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
5 enforcement of the case.

6 **DRUG**

7 16. Cocaine is a Schedule II controlled substance as designated by Health and Safety  
8 Code section 11055(b)(6), and is a dangerous drug pursuant to Business & Professions Code  
9 section 4022.

10 **FIRST CAUSE FOR DISCIPLINE**

11 **(September 27, 1994 Criminal Conviction for Taking Vehicle Without Owner's Permission**  
12 **on September 13, 1994)**

13 17. Respondent is subject to disciplinary action under sections 490 and 4301,  
14 subdivisions (I) of the Code in that Respondent was convicted of a crime substantially related to  
15 the qualifications, functions and duties of a pharmacy technician. The circumstances are as  
16 follows:

17 a. On or about September 27, 1994, in a criminal proceeding entitled *People of the*  
18 *State of California vs. Marcus Leon Eddens*, in the Los Angeles Superior Court, Bellflower  
19 Courthouse Judicial District, in case number 94M04466, Respondent pled guilty to violating  
20 Penal Code section 499(b) (taking vehicle without owner's permission), a misdemeanor.

21 b. The circumstances that led to the conviction are that on or about September 13, 1994,  
22 Los Angeles Sheriff's Department deputies arrested Respondent for taking a vehicle without the  
23 owner's permission.

24 c. As a result of the conviction, Respondent was placed on three years summary  
25 probation and ordered to perform 30 hours of community service and obey all laws and orders of  
26 the court. On or about February 28, 1995, a \$5,000 bench warrant was issued for Respondent's  
27 arrest for violating probation. On June 7, 1995, a hearing was held and the bench warrant was  
28

1 recalled. Respondent was ordered to serve 90 days in the county jail, with 6 days credit for time  
2 served. Probation was ordered terminated upon completion of the jail sentence.

3 **SECOND CAUSE FOR DISCIPLINE**

4 **(Unprofessional Conduct – Illegal Possession of a Controlled Substance – Cocaine – on**  
5 **March 2, 2011)**

6 18. Respondent is subject to disciplinary action under section 4301, subdivisions (j) and  
7 (o) of the Code in that Respondent was in possession of the controlled substance and dangerous  
8 drug, cocaine, without a prescription in violation of section 4060 of the Code. The circumstances  
9 are as follows:

10 a. On March 2, 2011, at approximately 1755 hours, Los Angeles Police Officers, while  
11 working in an undercover capacity driving an undercover vehicle, observed Respondent and a  
12 female walking northbound on Crocker approaching 4th Street in the City of Los Angeles. The  
13 officers observed Respondent had his right hand out in front of him, palm facing up. Respondent  
14 and the female were both looking down at Respondent's open right palm. When the officers were  
15 approximately 15 feet from Respondent, they observed an off-white solid resembling cocaine  
16 base on the suspect's open right palm. The officers exited the undercover vehicle and, as the  
17 officers approached Respondent, Respondent immediately closed his right hand, forming a fist.  
18 The officers identified themselves and told Respondent to open his right hand. Officers then  
19 recovered the off-white solid resembling cocaine base wrapped in plastic. Respondent was  
20 arrested for possession of cocaine base. During a search of Respondent's person, the officers  
21 recovered a "Kool" cigarette box. Inside the cigarette box, officers recovered two (2) off-white  
22 solids resembling cocaine base wrapped in plastic and a glass pipe with residue. Respondent was  
23 transported to the Los Angeles County Jail and booked.

24 b. As a result of the arrest, on or about March 24, 2011, in a criminal proceeding entitled  
25 *People of the State of California vs. Marcus Leon Eddens*, in the Los Angeles Superior Court,  
26 case number BA381658, Respondent pled guilty to violating Health and Safety Code section  
27 11350 (possession of a controlled substance), to wit: cocaine.  
28

1 c. As a result of the guilty plea, the court deferred entry of judgment for 18 months and  
2 Respondent was placed on drug diversion pursuant to Penal Code section 1000, and ordered  
3 Respondent to pay various fees and fines, obey all laws and orders of the Court, enroll within 30  
4 days and successfully complete an approved controlled substance treatment program.

5 **THIRD CAUSE FOR DISCIPLINE**

6 **(Unprofessional Conduct - Committed Act Which Would Have Warranted**  
7 **Denial of License)**

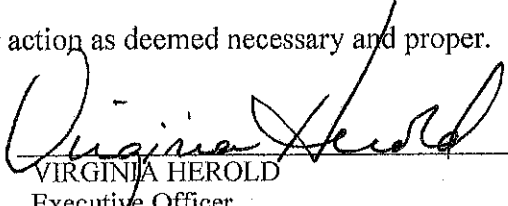
8 19. Respondent is subject to disciplinary action under section 4301(p) of the Code in that  
9 he engaged in actions or conduct that would have warranted denial of a license, as fully set forth  
10 at paragraph 17 and 18, above, which are incorporated here by reference.

11 **PRAYER**

12 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
13 and that following the hearing, the Board of Pharmacy issue a decision:

- 14 1. Revoking or suspending Pharmacy Technician Registration Number TCH 96615,  
15 issued to Marcus Leon Eddens;
- 16 2. Ordering Marcus Leon Eddens, to pay the Board of Pharmacy the reasonable costs of  
17 the investigation and enforcement of this case, pursuant to Business and Professions Code section  
18 125.3;
- 19 3. Taking such other and further action as deemed necessary and proper.

20 DATED: 4/3/12

  
21 VIRGINIA HEROLD  
22 Executive Officer  
23 Board of Pharmacy  
24 Department of Consumer Affairs  
25 State of California  
26 Complainant

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